



1609
Docket No.: 22212USWO (C038435/0196793)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)
Daniel RAEDERSTORFF *et al.*)
Serial No.: 10/573,222) Examiner: H. L. Anderson
Filed: March 23, 2006) Art Unit: 1609
For: **COMPOSITIONS FOR THE**)
TREATMENT AND PREVENTION OF)
DIABETES MELLITUS)

New York, New York
June 15, 2007

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed May 18, 2007, which set a one-month shortened statutory period for response. Accordingly, this response is filed timely upon mailing, with an executed certificate of mailing, on or before June 18, 2007. 37 CFR § 1.8. No fee is believed to be due. If it is determined that a fee is due, please charge such fee to Deposit Account No. 02-4467. A duplicate copy of this sheet is enclosed.

On page 2 of the Office Action, the Examiner issued a three-way restriction requirement pursuant to 35 USC §§ 121 and 372. The restriction divided the claims into the following allegedly distinct inventions: Group I drawn to a "method of

making a nutraceutical composition comprising a catechin and a PPAR γ ligand" containing claims 1-7 and 19-20; Group II drawn to "a method of treating diabetes and/or obesity and syndrome X comprising consuming a catechin during administration of a PPAR γ ligand" containing claims 8-13; and Group III drawn to "a composition comprising a catechin and a PPAR γ ligand" containing claims 14-18. (Paper No. 20070514 at 2.)

In accordance with restriction practice, the subject matter of **claims 14-18 (Group III)** is hereby elected for prosecution with traverse.

In addition, the Examiner issued a requirement to "elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable." (Paper 20070514 at 3.) The Examiner asserted that the following species "lack unity of invention":

- A) Full agonist;
- B) Partial agonist;
- C) Selective PPAR γ modulator/agonist;
- D) PPAR γ dual agonist or panagonist;
- E) Thiazolidinedione;
- F) PUFA;
- G) Ligustilide; and
- H) Phytanic acid. (*Id.*)


In accordance with election of species practice, **G) Ligustilide** is elected for purposes of Examination with traverse.

The Examiner further required that applicant identify "the claims encompassing the elected invention." (*Id.* at 4.) The elected invention is encompassed by elected claims 14-15 and 17-18.

Application No.: 10/573,222
Response Dated: June 15, 2007
Reply to Office Action Dated: May 18, 2007


If the Examiner has any questions regarding this paper, please contact
the undersigned attorney.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 15, 2007.



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Respectfully submitted,

By: 

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